

**RESOLUTION GRANTING THIRD ROUND SUBSTANTIVE CERTIFICATION #38-09**

**Stone Harbor Borough, Cape May County**

WHEREAS, Stone Harbor Borough, Cape May County, petitioned the Council on Affordable Housing (COAH) for substantive certification of a Housing Element and Fair Share Plan addressing its total 1987-2018 affordable housing obligation on December 31, 2008; and

WHEREAS, Stone Harbor published notice of its petition in the *Press of Atlantic City* on March 11, 2009, which is a newspaper of general circulation within the county, pursuant to N.J.S.A. 52:27D-313 and N.J.A.C. 5:96-3.5; and

WHEREAS, comments on the plan from the Fair Share Housing Center (FSHC) were received by COAH, on April 27, 2009, during the 45-day objection period; and

WHEREAS, after a review of the Borough's Housing Element and Fair Share Plan, COAH issued a Report Requesting Additional Information (RRAI) on July 14, 2009; and

WHEREAS, the Borough addressed COAH's request for additional information in its response to the RRAI, received by COAH on September 11, 2009; and

WHEREAS, the response included a revised inclusionary overlay zone to help address the Borough's unmet need of 141 units; and

WHEREAS, as part of its second round certification, Stone Harbor was granted a vacant land adjustment of 141 units that resulted in a reduced new construction obligation or realistic development potential (RDP) of zero and an unmet need of 141 units; and

WHEREAS, Stone Harbor's Fair Share Plan addresses its total 1987-2018 affordable housing obligation, which consists of a zero rehabilitation share, a 141-unit unmet need from the

prior round obligation and a zero unit projected growth share obligation pursuant to N.J.A.C. 5:97; and

WHEREAS, COAH staff has reviewed the Borough's Housing Element and Fair Share Plan, which is incorporated by reference herein; and

WHEREAS, Stone Harbor does not have a rehabilitation obligation and therefore has not proposed a rehabilitation program; and

WHEREAS, the Borough proposes to address its unmet need from its prior round obligation with an inclusionary zone, which overlays the Business District and will produce up to 70 affordable housing units; and

WHEREAS, Stone Harbor proposes a 10-unit Accessory Apartment Program to address its actual growth share obligation; and

WHEREAS, pursuant to N.J.A.C. 5:96-6.2(a)2, on September 25, 2009 COAH issued a Compliance Report (attached as Exhibit A and incorporated by reference herein) recommending approval of Stone Harbor's petition for third round substantive certification; and

WHEREAS, the 14-day period to submit comments to the COAH Compliance Report pursuant to N.J.A.C. 5:96-6.2(b) ended on October 9, 2009 and COAH did not receive comments.

NOW THEREFORE BE IT RESOLVED that the Housing Element and Fair Share Plan submitted by Stone Harbor Borough comports to the standards set forth at N.J.S.A. 52:27D-314 and meets the criteria for third round substantive certification pursuant to N.J.A.C. 5:96-6.3; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:97-4.1(d), all credits will be verified and validated during monitoring subsequent to substantive certification pursuant to N.J.A.C. 5:96-11; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:96-6.2(a), after having reviewed and considered all of the above, COAH hereby grants third round substantive certification to Stone Harbor; and

BE IT FURTHER RESOLVED that after receiving final substantive certification, pursuant to N.J.A.C. 5:96-6.3(e), Stone Harbor shall adopt all implementing Fair Share Ordinances within 45 days of this grant of substantive certification; and

BE IT FURTHER RESOLVED if the Borough fails to timely adopt its Fair Share Ordinances, COAH's grant of substantive certification shall be void and of no force and effect; and

BE IT FURTHER RESOLVED that Stone Harbor shall submit all Fair Share Ordinances to COAH upon adoption; and

BE IT FURTHER RESOLVED that Stone Harbor shall comply with COAH monitoring requirements as set forth in N.J.A.C. 5:96-11, including reporting the Borough's actual growth pursuant to N.J.A.C. 5:97-2.5; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:96-10.1, COAH shall conduct biennial plan evaluations upon substantive certification of Stone Harbor's Housing Element and Fair Share Plan to verify that the construction or provision of affordable housing has been in proportion to the actual residential growth and employment growth in the municipality and to determine that the mechanisms addressing the projected growth share obligation continue to present a realistic opportunity for the creation of affordable housing; and

BE IT FURTHER RESOLVED that if upon any biennial review the difference between the number of affordable units constructed or provided in Stone Harbor and the number of units required pursuant to N.J.A.C. 5:97-2.5 results in a pro-rated production shortage of 10 percent or greater, the Borough is not adhering to its implementation schedule pursuant to N.J.A.C. 5:97-

3.2(a)4, or the mechanisms addressing the projected growth share obligation no longer present a realistic opportunity for the creation of affordable housing, the Council may direct the municipality to amend its plan to address the shortfall; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:97-2.5(e), if the actual growth share obligation is less than the projected growth share obligation, Stone Harbor shall continue to provide a realistic opportunity for affordable housing to address the projected growth share; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:96-6.3(b), Stone Harbor's substantive certification shall remain in effect until December 31, 2018; and

BE IT FURTHER RESOLVED that any changes to the facts upon which this substantive certification is based or any deviations from the terms and conditions of this substantive certification which affect the ability of Stone Harbor to provide for the realistic opportunity of its fair share of low and moderate income housing and which the Borough fails to remedy, may render this certification null and void.

I hereby certify that this resolution was  
duly adopted by the Council on Affordable  
Housing at its public meeting on October 14, 2009

A handwritten signature in cursive script, reading "Reneé Reiss". The signature is written in black ink and is positioned above the printed name and title.

Reneé Reiss, Secretary  
Council on Affordable Housing



***Council on Affordable Housing  
Compliance Report  
September 25, 2009***



**Municipality:** *Stone Harbor Borough*  
**County:** *Cape May County*

**COAH Region:** *6*  
**Planning Area:** *5*  
**Special Resource Area:** *CAFRA*

**Housing Element and Fair Share Plan Adopted:** *December 6, 2008*  
**Petition for 3<sup>rd</sup> Round Substantive Certification:** *December 31, 2008*  
**Completeness Determination:** *March 6, 2009*  
**Date of Publication:** *March 11, 2009*

**Objections Received:** *No*  
**Comments Received:** *Yes, Fair Share Housing Center*

**Petition Includes:**  
**VLA:** *Yes*  
**GPA:** *No*  
**Waiver:** *No*                      **Section:** *N/A*

**Date of Site Visit:** *May 8, 2009*

**History of Approvals:**

	<b>COAH</b>	<b>JOC</b>	<b>N/A</b>
<b>First Round:</b>	<i>10/3/1990</i>		
<b>Second Round:</b>	<i>10/1/1997</i>		
<b>Extended Certification:</b>	<i>4/13/2005</i>		

**Plan Preparer:** *Kendra Lelie, Planning Consultant, Planning Design Collaborative, LLC*

**Municipal Housing Liaison:** *Michael Koochembere, Construction Official*

**Recommendation:** *Grant Substantive Certification*

***SUMMARY OF FAIR SHARE OBLIGATION***

Rehabilitation Share	0
Prior Round Realistic Development Potential (RDP)	0
Prior Round Unmet Need	141
Projected Growth Share Obligation	0

***ACTUAL GROWTH and GROWTH SHARE through September 2008<sup>1</sup>***

<b>Res Units (#)</b>	<b>Actual Res Growth Share</b>	<b>Jobs (#)</b>	<b>Actual Non-Res Growth Share</b>	<b>Actual TOTAL Growth Share</b>
197	39 units	0	0 units	39 units

***COMPLIANCE PLAN SUMMARY***

<b>Obligation</b>	<b>Credit/ Mechanism Type</b>	<b># Units Completed</b>	<b># Units Proposed</b>	<b>TOTAL</b>
<b>Rehabilitation: 0 units</b>				
<b>Proposed Mechanism(s)</b>	N/A		0	0
<b>Rehabilitation Subtotal</b>				<b>0</b>
<b><i>NEW CONSTRUCTION</i></b>				
<b>Prior Round Realistic Development Potential: 0 units</b>				
<b>Proposed Mechanism(s)</b>	N/A		0	0
<b>Prior Round Subtotal</b>				<b>0</b>
<b>Growth Share: 0 units</b>				
<b>Proposed Mechanism(s)</b>	Accessory Apartments		10	10
<b>Growth Share Subtotal</b>				<b>10</b>

<sup>1</sup> This growth share number does not take into account allowable exclusions permitted under N.J.A.C. 5:97-2.4; therefore, the actual growth share may vary.

## **I. HOUSING ELEMENT**

Pursuant to N.J.S.A. 40:55D-28(b), the Housing Element is a required section of the Municipal Master Plan. The Housing Element must be designed to achieve the goal of access to affordable housing to meet existing and future housing needs, with special attention given to low- and moderate-income households. The housing needs analysis must include demographic information on existing and projected housing stock and employment characteristics, a quantification of low- and moderate-income housing need, and a consideration of the lands within the municipality that are most appropriate to accommodate such housing. Stone Harbor's Housing Element includes sufficient information regarding housing stock, demographic and employment characteristics and population trends pursuant to N.J.S.A. 52:27D-310.

Under N.J.A.C. 5:97-2.1(b), the Housing Element must also set forth the municipality's affordable housing fair share obligation, which is the sum of the rehabilitation share, the prior round obligation and the growth share.

### **A. Rehabilitation Share**

The rehabilitation share is the number of existing housing units within a municipality as of April 1, 2000, that are both deficient and occupied by households of low or moderate income. As indicated in Appendix B of N.J.A.C. 5:97, Stone Harbor has a rehabilitation share of zero units.

### **B. Prior Round Obligation**

The prior round obligation is the cumulative 1987-1999 new construction obligation provided in Appendix C of N.J.A.C. 5:97. Stone Harbor has a prior round obligation of 141. However, Stone Harbor received a vacant land adjustment of 141 that resulted in a reduced new construction obligation or realistic development potential (RDP) of zero and an unmet need of 141.

### **C. Projected Growth Share**

The projected growth share is initially calculated based on household (residential) and employment (non-residential) 2004-2018 projections. Pursuant to Appendix F of

N.J.A.C. 5:97, Stone Harbor has a residential projection of zero units and a non-residential projection of zero jobs, which results in an initial projected growth share obligation of zero affordable units.

**SUMMARY OF FAIR SHARE OBLIGATION**

Rehabilitation Share	0
Prior Round Realistic Development Potential	0
Prior Round Unmet Need	141
Projected Growth Share Obligation	0

**II. FAIR SHARE PLAN**

A Fair Share Plan, as required under N.J.A.C. 5:97-3.1, describes the completed or proposed mechanisms and funding sources, if applicable, that will be utilized to specifically address a municipality's rehabilitation share, prior round obligation, and growth share obligation and includes the draft ordinances necessary to implement that plan. Affordable housing must be provided in direct proportion to the growth share obligation generated by the actual growth.

Stone Harbor's Fair Share Plan, and the supporting documentation incorporated by reference therein, address the requirements of N.J.A.C. 5:97-3.1 as follows:

**A. Plan to Address Rehabilitation Share**

**Rehabilitation Share Credits**

Stone Harbor does not have a rehabilitation obligation.

**B. Plan to Address Prior Round Obligation**

**Prior Round Obligation Credits**

Stone Harbor's Housing Element and Fair Share Plan does not include any prior round obligation credits.

**Proposed Affordable Housing Mechanisms**

Stone Harbor proposes to address its unmet need of 141 units with the following mechanism:



### ***Inclusionary Overlay Zone***

As part of its December 31, 2008 Fair Share Plan, Stone Harbor proposed to utilize an inclusionary overlay zone to address its unmet need. The inclusionary zone would overlay the “B” residential district, which is situated within the center of the Borough. In this zone, the Borough would permit duplex dwellings on 9,900 square foot lots where duplex dwellings are currently only permitted on lots of at least 12,500 square feet. Total developable land for new development and redevelopment was estimated by the Borough to be 80 acres; therefore, the zoning district could conceivably accommodate a maximum of 376 units at a presumptive density of six units per acre. The Borough estimated a minimum of 50% of the units or 188 family units could be set aside for affordable housing. The “B” residential district is primarily developed with the exception of a few cleared and/or vacant lots. Lots in the “B” District are located in the interior blocks of the island and are neither beachfront nor bay front.

As currently proposed, this inclusionary zone would permit a minimum 50% set aside in exchange for only a modest reduction in the minimum lot size. Therefore, COAH staff requested in its Report Requesting Additional Information dated July 14, 2009, that the Borough demonstrate how this inclusionary zone would provide a financial incentive to a potential developer to produce affordable housing pursuant to N.J.A.C. 5:97-6.4. In the Borough’s response submitted to COAH on September 11, 2009, Stone Harbor did not provide an analysis demonstrating how this zone provided an economic incentive to construct affordable housing. Instead, the Borough chose to identify an alternative inclusionary zone to address its unmet need.

In Stone Harbor’s response to COAH’s report, the Borough’s affordable housing subcommittee has agreed to create an overlay district in the Business Zoning District, where the Borough believes there is more of a realistic opportunity to create affordable housing. The Business District is along 96<sup>th</sup> Street, which is the main thoroughfare onto the island from Middle Township. Ocean Drive and Second Avenue also are in the Business District between 93<sup>rd</sup> and 99<sup>th</sup> Street. Two minor Business Districts also exist in Stone Harbor. Most of the lots are developed and no environmental constraints are present in the Business District. Stone Harbor is served by both public water and sewer and has adequate capacity.

The Borough has recommended permitting second story additions to the one story units for apartment units provided there was one affordable unit for every four market rate units. Stone Harbor estimates that there are 70 single-story structures in the Business District and that each could accommodate one affordable unit; therefore, the Borough is estimating a maximum of 70 affordable housing units could be built to address the unmet need. The proposed overlay zone must be adopted within 45 days of substantive certification. **[70 zoned units]**

**Proposed Prior Round Affordable Housing Mechanisms**

<b>Type/Name of Affordable Housing Mechanism</b>	<b>Type of Affordable Unit</b>	<b># Units/Bedrooms</b>	<b>Total Units/Bedrooms + Bonuses</b>
Overlay Zone	Inclusionary	70	70
<b>TOTALS</b>		<b>70</b>	<b>70</b>

**Prior Round Obligation Parameters**

Stone Harbor had a prior round RDP of 0 and therefore the prior round parameters do not apply. Also, the Borough has not proposed to meet its unmet need with any age-restricted housing.

**C. Plan to Address Projected Growth Share**

**Growth Share Obligation Credits**

Stone Harbor's Housing Element and Fair Share Plan does not include any growth share obligation credits.

**Proposed Affordable Housing Mechanisms**

Stone Harbor has a projected growth share obligation of zero. The Borough is proposing the following mechanism to capture affordable housing opportunities towards an obligation based on actual growth that Stone Harbor projected.

### ***Accessory Apartment Program***

Stone Harbor will utilize a 10-unit accessory apartment program to address 10 units of its actual growth share obligation. According to its Fair Share Plan, the Borough has sufficient existing accessory housing stock within its Business zoning district and Residential zoning districts to provide opportunities for accessory apartments. During a May 8, 2009 site visit, COAH staff confirmed the existence of several multi-story retail establishments in the commercial district and detached garages in the residential district that could be retrofitted to participate in the Borough's accessory apartment program.

Stone Harbor submitted a draft ordinance conditionally permitting accessory apartments, which may be located in the principal building or in an existing permitted accessory building, such as a barn or garage, and may include existing and/or expanded structure construction. The ordinance requires a minimum floor area of at least 300 square feet but no greater than 25% of the total floor area of the main structure. COAH staff noted in the RRAI that the Balanced Housing Program sets forth a minimum standard of 550 square feet for a studio apartment. The Borough's subcommittee has agreed that this change is acceptable and will revise the ordinance accordingly. A limit of 10 accessory apartments is permitted by the ordinance. Of the five low-income units, one will be deed restricted for a very low income household.

Revenues collected from development fees will be used to fund the accessory apartment program. In the event that there is an inadequate amount of funding in the affordable housing trust fund to complete this program, the Borough adopted on January 6, 2009 a Resolution of Intent to Bond. According to the Fair Share Plan, Stone Harbor is committed to bond a minimum of \$20,000 per unit for moderate income households and \$25,000 per unit for low income household for a total subsidy of \$225,000 per unit. All units will be served by public water and sewer. Stone Harbor has submitted a draft operating manual and marketing plan and will appoint an administrative agent within 45 days of substantive certification. **[10 accessory apartments]**

**Proposed Growth Share Affordable Housing Mechanisms**

Type/Name of Affordable Housing Mechanism	Type of Affordable Unit	# Units/Bedrooms	Bonus Type	# Bonuses	Total Units/Bedrooms + Bonuses
Accessory Apartments		10		-	10
<b>TOTALS</b>		<b>10</b>		<b>-</b>	<b>10</b>

**Growth Share Parameters**

Stone Harbor has satisfied the applicable growth share parameters as follows:

**Growth Share Rental Obligation:<sup>2</sup> 3 Units**

Development/Project Name	Type of Affordable Unit	# Units
Accessory Apartments		10
<b>TOTAL</b>		<b>10</b>

**Growth Share Family Rental Requirement<sup>3</sup> : 2 Units**

Development/Project Name	Type of Affordable Unit	# Units
Accessory Apartments		10
<b>TOTAL</b>		<b>10</b>

**Growth Share Minimum Family Requirement<sup>4</sup> : 5 Units**

Development/Project Name	Type of Affordable Unit	# Units
Accessory Apartments		10
<b>TOTAL</b>		<b>10</b>

**Very Low Income Minimum Requirement<sup>5</sup> : 1 Unit**

Development/Project Name	Type of Affordable Unit	# Units
Accessory Apartments		1
<b>TOTAL</b>		<b>1</b>

<sup>2</sup> Projected Growth Share Rental Obligation: .25(Projected Growth Share) or .25(10) = 2.5 or 3 units  
N.J.A.C. 5:97-3.10(b)3

<sup>3</sup> Projected Growth Share Family Rental Requirement: .5(Projected Growth Share Rental Requirement) or .5(3) = 1.5 or 2 units N.J.A.C. 5:97-3.4(b)

<sup>4</sup> Projected Growth Share Family Requirement: .5(Units Addressing the Growth Share Obligation) or .5(10) = 5 units N.J.A.C. 5:97-3.9

<sup>5</sup> Growth Share Very Low Income Requirement: .13(Projected Growth Share) or .13(10)= 1.33 or 1 unit pursuant to P.L.2008, c.46

### **Actual Growth Share Obligation**

The actual growth share obligation will be based on permanent certificates of occupancy issued within the municipality for market-rate residential units and newly constructed or expanded non-residential developments in accordance with Appendix D of N.J.A.C. 5:97. At plan evaluation review pursuant to N.J.A.C. 5:96-10, COAH will compare the actual growth share obligation with the actual number of affordable units constructed.

The New Jersey Department of Community Affairs (NJ DCA) *Construction Reporter* indicates that between January 1, 2004 and September 2008, Stone Harbor issued certificates of occupancy for 197 housing units and for the non-residential square footage equivalent of zero jobs, yielding an actual growth share obligation through September 30, 2008, of 39 affordable units.<sup>6</sup>

COAH staff notes that Stone Harbor's actual growth share obligation to-date of 39 units exceeds the Borough's projected need of zero units. This measure of actual growth does not include any reductions that may be available to the Borough through exclusions pursuant to N.J.A.C. 5:97-2.4(a)1. The Borough acknowledges an increase in actual growth but excludes all demolitions of housing units that were owned by the same owner for at least one year. However, pursuant to the recently adopted N.J.A.C. 5:97-2.5(a)1v, only units that were occupied by the current owner for at least one year prior to demolition and where no change in use has occurred may be subtracted. It appears unlikely that all the demolitions Stone Harbor has excluded were owner-occupied since, according to 2000 Census data, only 502 of the 3,428 units in the Borough were owner-occupied.

At the biennial review, Stone Harbor will have the opportunity to demonstrate that the teardowns are a result of owner-occupied units being rebuilt, pursuant to N.J.A.C. 5:97-2.5(a)1.v. Pursuant to N.J.A.C. 5:97-2.5, the Borough is required to provide

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<sup>6</sup> The number of residential COs (197) is initially divided by 5 to yield 39 units and the number of jobs (0) is initially divided by 16 to yield 0 units. Stone Harbor's total actual growth share is therefore 39 units (39 + 0). **Note:** This number does not take into account allowable exclusions permitted under N.J.A.C. 5:97-2.4; therefore, the actual growth share may vary.

affordable housing in direct proportion to the growth share obligation generated by the actual growth, which shall be monitored at its biennial review. At that time, Stone Harbor shall demonstrate that it has provided sufficient affordable units to keep pace with its actual growth. Stone Harbor has expressed, in its response to the RRAI, a willingness to partner with local churches as a method to address its affordable housing obligation resulting from actual growth at the time of the biennial review.

**D. Summary of Plan to Address Fair Share Obligation**

**PRIOR ROUND SUMMARY**

**RDP: 0 Units**

	<b>Name of Mechanism</b>	<b># Units/Bedrooms</b>	<b>Bonus Type</b>	<b># Bonuses</b>	<b>Total Units/Bedrooms + Bonuses</b>
<b>Proposed Mechanisms</b>	N/A	0			0
<b>TOTAL</b>		<b>0</b>			<b>0</b>

**GROWTH SHARE SUMMARY**

**Projected Growth Share Obligation: 0 Units**

	<b>Name of Mechanism</b>	<b># Units/Bedrooms</b>	<b>Bonus Type</b>	<b># Bonuses</b>	<b>Total Units/Bedrooms + Bonuses</b>
<b>Proposed Mechanisms</b>	Accessory Apartments	10			10
<b>TOTAL</b>		<b>10</b>			<b>10</b>

**III. FAIR SHARE DOCUMENT REVIEW**

**A. Development Fee Ordinance**

Stone Harbor submitted a draft development fee ordinance for COAH's review and approval on October 3, 2008. The development fee ordinance was approved by COAH on October 31, 2008 and adopted by the Borough on December 2, 2008.

**B. Third Round Spending Plan**

A third round spending plan was submitted by Stone Harbor with the Borough's third round petition for COAH's review and approval. The spending plan will be reviewed by COAH in a separate report.

**C. Affordable Housing Ordinance/Affordable Housing Administration**

Stone Harbor has submitted a draft affordable housing ordinance that comports with the requirements of the Uniform Housing Affordability Controls (UHAC), N.J.A.C. 5:80-26.1 *et seq.*, which was amended on December 20, 2004. The draft proposed ordinance is in compliance with the barrier free subcode of the State Uniform Construction Code Act (N.J.S.A. 52:27D-119 *et seq.*) and the accessibility requirements of N.J.S.A. 52:27D-123.15. The draft ordinance must be adopted within 45 days of COAH's grant of substantive certification and submitted to COAH immediately upon adoption.

An ordinance establishing the position of a municipal housing liaison and a resolution appointing a municipal housing liaison were adopted by the Borough on June 5, 2007.

Stone Harbor is responsible for the continued re-sale and re-rental of existing affordable units and the initial sale and rental of newly constructed affordable units within the Borough and must identify an experienced administrative entity for that purpose by contract, agreement or letter. Stone Harbor must submit a contract with an administrative entity for all affordable units within 45 days of substantive certification. Pursuant to N.J.A.C. 5:80-26.14(b), Stone Harbor has submitted a draft written operating manual for administering affordable units within the Borough.

**D. Affirmative Marketing Plan**

Stone Harbor has submitted an affirmative marketing plan that comports with the requirements of the UHAC and ensures the units in the Borough's 1987-2018 Fair Share Plan and all future affordable housing units will be affirmatively marketed to the region upon initial sale/rental and re-sale/re-rental. Once approved by COAH, the affirmative marketing plan must be adopted by resolution by the Borough within 45 days of COAH's grant of substantive certification and submitted to COAH.

#### **IV. SUMMARY OF COMMENTS**

##### Fair Share Housing Center Comments

Adam M. Gordon, on behalf of Fair Share Housing Center (FSHC), submitted a letter dated April 27, 2009, commenting on Stone Harbor's Fair Share Plan during the 45-day objection period. FSHC states that the letter is not intended as an objection to the Township's plan pursuant to N.J.A.C. 5:96-4.1; however, FSHC has several concerns that they would like addressed.

First, FSHC notes that Stone Harbor's Fair Share Plan does not address the Borough's actual growth share of 39 units between 2004 and September 2008. Additionally, since the Borough's actual growth has already exceeded the Borough's proposed units, FSHC believes the Stone Harbor's Plan should address the full actual growth share and demonstrate how it will meet all statutory and regulatory requirements. FSHC also points out that Stone Harbor exempted units from its actual growth share calculation that may not be eligible considering the low percentage of owner-occupied units in the Borough.

In regards to the inclusionary zone proposed by the Borough, FSHC indicates that the 50% set-aside does not meet COAH's regulations and does not provide a realistic opportunity for affordable housing. FSHC believes that the Borough should develop a new method to meet its unmet need.

##### COAH's Response

COAH staff notes that Stone Harbor's actual growth share obligation to-date of 39 units exceeds the Borough's projected need of zero units. At the first biennial review, Stone Harbor must demonstrate that it has provided sufficient affordable units to keep pace with its actual growth. At that point the Borough will have the opportunity to confirm that the demolitions are a result of owner-occupied units being rebuilt, pursuant to N.J.A.C. 5:97-2.5(a)1.v. In its response to the Report Requesting Additional Information, the Borough's affordable housing subcommittee agreed to begin contacting local churches to determine if there was an interest in partnering in a public/private relationship to build affordable housing to meet the realized actual growth at the time of



monitoring. The Borough will continue to work with COAH to provide the necessary information.

In regard to the inclusionary zone, Stone Harbor has replaced its original inclusionary zone and proposed a new inclusionary overlay zone of the Business District has described earlier in this report.

## **V. MONITORING**

Stone Harbor must comply with COAH monitoring requirements as set forth in N.J.A.C. 5:96-11, including reporting the municipality's actual growth pursuant to N.J.A.C. 5:97-2.5. As indicated above, credits for built units will be validated and verified by COAH staff during monitoring prior to the first biennial plan evaluation. It should be noted that credits for affordable housing programs and/or affordable units must be in compliance with N.J.A.C. 5:97-4. If the units are determined not to be eligible for credit, COAH will notify Stone Harbor in writing and the Borough may be directed to amend its certified plan to address the shortfall.

Pursuant to N.J.A.C. 5:96-10.1, COAH will conduct biennial plan evaluations upon substantive certification of Stone Harbor's Housing Element and Fair Share Plan. The purpose of the plan evaluation is to verify that the construction or provision of affordable housing has been in proportion to the actual residential growth and employment growth in the municipality and to determine that the mechanisms addressing the projected growth share obligation continue to present a realistic opportunity for the creation of affordable housing. If upon any biennial review the difference between the number of affordable units constructed or provided in Stone Harbor and the number of units required pursuant to N.J.A.C. 5:97-2.5 results in a pro-rated production shortage of 10 percent or greater or the mechanisms addressing the projected growth share obligation no longer present a realistic opportunity for the creation of affordable housing, the Council may direct the municipality to amend its plan to address the shortfall.

**VI. RECOMMENDATION**

COAH staff recommends that Stone Harbor be granted third round substantive certification. Stone Harbor must adopt all necessary implementing ordinances and contact with an experienced Administrative` Agent within 45 days of the grant of substantive certification and submit certified copies of the adopted ordinances to COAH within seven days of the adoption.